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EXAMINER	
JARRETT, SCOTT L	

ART UNIT	PAPER NUMBER
3624	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/735,044	VIGIL, SHIRLEY	
	Examiner	Art Unit	
	SCOTT L. JARRETT	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 September 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This **Final** Office Action is in response to Applicant's amendments filed September 9, 2008. Applicant's amendment amended claims 1-17 and added new claims 18-20. Currently claims 1-20 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Response to Amendment

3. The objection to claim 7 in the previous office action is withdrawn in response to Applicant's amendment to claim 7.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

It is noted that the applicant did not challenge the officially cited facts in the previous office action(s) therefore those statements as presented are herein after prior art. Specifically it has been established that it was old and well known in the art at the time of the invention to forecast resource (human, non-human, etc.) requirements based on observed/collected work performance/activity data (e.g. comparing actual to planned resources observed; Specification: Figure 8, Paragraph 50) is old and very well known

in workforce planning/scheduling and management control systems (see at least Horney, Implementing a Management Control System, 1984, Abstract) wherein historical and/or real-time work activity/performance data enables businesses to more accurately plan future resource requirements based on observed data (facts) determining such things as the level of staffing required (number, skill set, hire/fire, etc.), the need for overtime and the like.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 1 and 9, Claims 1 and 9 recite the limitation "as a result of **the** analyzing" in Claims 1 and 9 respectively. There is insufficient antecedent basis for this limitation in the claim.

Examiner interpreted the claim to read "as a result of analyzing" for the purposes of examination. Appropriate correction required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Nation et al. U.S. Patent Publication No. 2007/020317.

Regarding Claims 1, 9 and 17 Michaels teaches a system and method for providing a disciplined approach for conducting business management activities comprising:

- developing an activity list of tasks and behaviors that relate to an identified opportunity (time studies, work sampling, etc.; Bullets 1-2, Page 58; Steps 1-3, Page 59; "Use Of Flow Charts", Page 62);

- performing a time study of observable behaviors associated with the activity ("Time Studies", Page 56; Last Paragraph, Page 57; Bullets 2-3, 4, Page 58; Step 3, Page 59);

- collecting data resulting from the time study ("Time Studies", Page 56; Last Paragraph, Page 57; Bullets 2-3, 4, Page 58; Step 3, Page 59);

- collecting data resulting from performance of work activities ("Time Studies", Page 56; Last Paragraph, Page 57; Bullets 2-3, 4, Page 58; Step 3, Page 59);

- identifying issues presented as a result of analyzing (Bullet 6, Page 58; Paragraph 4, Page 58; Steps 4-6, Page 59; Paragraph 6, Page 61; Last Bullet, Page 62);

- generating and implementing a roadmap (plan, process, approach, strategy, model, program, curriculum, etc.) for resolving issues (e.g. new/revised process; Steps 4-6, Page 59; Last Two Bullets, Page 62);

- training individuals affected by the roadmap in accordance with action items contained in the roadmap (e.g. performance feedback; Paragraph 5, Page 62; Bullets 1-2, page 63); and

- updating resource schedules and allocation (e.g. balancing workloads; Last Bullet, Page 55; Bullet 1, Page 56; Bullet 1, Page 62).

Michaels does not expressly teach that generating a roadmap includes ranking individuals based upon observable behaviors conducted in an initial screening (testing, evaluation, observation, assessment, etc.) to identify training requirements; or that training the individuals includes linking a corresponding training program with the individuals in response to the initial screening as claimed.

Nation et al. teaches generating a roadmap (action plan, career path, training course, etc.) includes ranking individuals based upon observable behaviors conducted in an initial screening (testing, evaluation, observation, assessment, etc.) to identify training requirements (Paragraphs 24, 95, 104, 130, 144, 145; Figure 10B) ; wherein

training the individuals includes linking a corresponding training program (action plan, career path, roadmap, course, etc.) with the individuals in response to the initial screening (linking competency gaps with personalized learning recommendations; Paragraphs 25-26, 73, 86-68, 88-90; Figures 5A-5C, 7A-7D) in an analogous art of training individuals for the purpose of providing personalized training to address identified competency gaps for individuals as well as groups of individuals (Paragraphs 85) and/or enabling individuals to manage their career path (Paragraph 95).

It would have been obvious to one skilled in the art at the time of the invention that the system and method as taught by Michaels would have benefited from ranking individuals based upon observable behaviors conducted in an initial screening to identify training requirements as well as linking a corresponding training program with the individuals in response to the initial screening in view of the teachings of Nation et al.; since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Neither Michaels nor Nation et al. expressly teach *forecasting future resource requirements* based upon reports generated as a result of the collecting data and identifying issues as claimed.

Official notice is taken that forecasting resource (human, non-human, etc.) requirements based on observed/collected work performance/activity data (e.g. comparing actual to planned resources observed; Specification: Figure 8, Paragraph 50) is old and very well known in workforce planning/scheduling and management control systems (see at least Horney, Implementing a Management Control System, 1984, Abstract) wherein historical and/or real-time work activity/performance data enables businesses to more accurately plan future resource requirements based on observed data (facts) determining such things as the level of staffing required (number, skill set, hire/fire, etc.), the need for overtime and the like.

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from forecasting future resource requirements based upon reports generated as a result of the collecting data and identifying issues in view of the teachings of Official Notice; the resultant system/method enabling businesses forecast resource requirements based on observed/collected data, such forecast being more likely than estimates not based on historical and/or real time work performance/activity data.

Michaels is silent on the 'components' comprised in the business management system and method and does not specifically teach that the business management system and method further comprises a plurality of components (subsystems, subroutines, code, hardware, etc.) including plan, execute, report, follow-up,

coach/train, forecast and sustain recited in claim 17; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific labels applied to the various system components. Further, the structural elements remain the same regardless of the specific labels applied to the various system components. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.*

8. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Nation et al. U.S. Patent Publication No. 2007/020317 as applied to claims 1 and 9 above, and further in view of Leehman, U.S. Patent Publication No. 2005/0043976.

Regarding Claims 2 and 10 Michaels teaches updating roadmaps (plans, processes, activities, etc.) upon notification of a compliance resulting from an activity assessment (Last Bullet, Page 55; Steps 5-6, Page 59; Paragraphs 2-3, Page 61).

Michaels does not expressly teach that the business management system and method further comprises updating a *database of roadmaps* upon notification of a compliance resulting from an activity assessment.

Leehman teaches updating a database of roadmaps (recommended process maps, best practices) upon notification of a compliance resulting from an activity assessment (Paragraphs 0019, 0023, 0035-0037) for the purposes of improving current roadmaps (processes, process maps) based on roadmaps stored in the roadmaps database (best practices database) in order to select the most cost effective process (roadmap) which meets the performance criteria (compliance requirements, Paragraph 0023, 0035).

More generally Leehman teaches a system and method for providing a disciplined approach for conducting business management activities comprising:

- developing an activity list of tasks and behaviors that related to an identified opportunity (Paragraph 0009, Figure 1);

- performing a time study of observable behaviors associated with the activity (Paragraphs 0018-0019);

- collecting data resulting from performance of work activities (Paragraphs 0018-0019);

- identifying issues presented as a result of analyzing the data (e.g. non-compliance; Paragraphs 0035-0037);

- generating and implementing a roadmap (process map, target process) for resolving issues (Paragraphs 0035);

- documenting current workflow (process) conditions and requirements (Paragraphs 0018-0019, 0023);

- identifying key volume/measurement indicators (key performance indicators, KPI; Paragraph 0018-0019, 0056-0075); and

- identifying activities and creating an activity list summary (Paragraphs 0019).

Leehman further teaches that the system and method for providing a disciplined approach for conducting business management activities includes the following system components (subsystems, subroutines, code, hardware, etc.) plan (research; Paragraph 0028; Figure 2), execute (startup; Paragraphs 0028-0029), report (Figures 4A, 4B), follow-up (Paragraphs 0034, 0037; Figures 4A, 4B), coach/train (Paragraphs 0034, 0037; Figures 4A, 4B), and sustain (Figures 3A, 3B).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels with its ability to update roadmaps would have benefited from updating a roadmaps stored in a database in view of the teachings of Leehman; the resultant system/method enabling businesses to update current best practices (best roadmaps/process maps) in a database which are in turn the most cost effective roadmap is selected (Leehman: Paragraph 0023).

9. Claims 3-4 11-12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Nation et al. U.S. Patent Publication No. 2007/020317 as applied to claims 1, 9 and 17 above, and further in view of Kaplan et al., Linking the Balanced Scorecard to Strategy (1996).

Regarding Claims 3 and 11 Michaels teaches a business management system and method further comprising establishing, documenting and communicating goals and objectives for exploiting the opportunity (Paragraph 6, Page 61; Paragraph 2, Page 62) as well as establishing, document and communicating objectives (approach, process, plan, technique, etc.; e.g. setting standards; Steps 5-6, Page 59; Paragraph 2, Page 62; Bullet 1, Page 63).

Michaels does not expressly teach establishing goals and *strategies* for exploiting the opportunity; documenting the goals and *strategies*; and communicating the goals and *strategies* to affected individuals as claimed.

Kaplan et al. teach establishing goals and strategies for exploiting the opportunity (Paragraphs 2-4, Page 56; Exhibits 1, 7; Last Two Paragraphs, Page 64); documenting the goals and strategies (Paragraphs 2-4, Page 56; Exhibits 1, 7; Last Two Paragraphs, Page 64); and communicating the goals and strategies to affected individuals (Paragraph 4, Page 66; Last Paragraph, Page 77) in an analogous art of conducting a disciplined approach to business management for the purpose of articulating,

communicating the strategy of the business to affected individuals as well as linking the goals and strategies to key indicators/measures so that they can be managed (Paragraph 3, Page 56; Paragraphs 1-2, Page 68; Paragraph 3, Page 65).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from establishing, documenting and communicating the goals and strategies for exploiting an opportunity in view of the teachings of Kaplan et al.; the resultant system/method enabling business to align business activities with the goals and strategies of the business/organization by communicating those goals and strategies to affected individuals (Kaplan et al.: Paragraphs 1-2, Page 68).

Regarding Claims 4 and 12 Michaels teach a business management system and method further comprising developing an activity detail summary (report) comprising: documenting current workflow (process) conditions and requirements; identifying activities and creating an activity list summary ("Work Simplification", Page 59; "Measuring Management', Page 57; "Use of Flow Charts", Page 62).

Michaels further teaches the utilization of performance standards (Paragraphs 2-3, Page 57; Measuring Management, Page 57).

While the utilization of key indicators (measures, metrics, etc.; key performance indicators, key volume indicators, etc.) is old and very well known in business

performance management and/or business performance benchmarking Michaels does not expressly teach identifying key volume or key measurement indicators as claimed.

Kaplan et al. teach using information from an activity list to develop an activity detail summary (balanced scorecard) comprising (Last Two Paragraphs, Page 64; Paragraphs 2-3, Page 66; Paragraphs 2-3, Page 69; Table on Page 76; Exhibits 1, 7, 8): documenting current workflow (business process) conditions and requirements (objectives, measures, targets); identifying key volume/measurement indicators (key performance indicators, generic measures, performance drivers; Paragraphs 2-3, Page 66); and identifying activities and creating an activity list summary (initiatives; Exhibits 1, 7, 8) in an analogous art of business management for the purpose of assist business in achieving their business strategy (Paragraph 3, Page 56; Paragraph 3, Page 65) by translating the strategy into operational measurements (key indicators; Paragraph 3, Page 77).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from identifying and summarizing key volume and measurement indicators in view of the teachings of Kaplan et al.; the resultant system/method assisting business in achieving their business strategy (Kaplan et al.: Paragraph 3, Page 56; Paragraph 3, Page 65) by translating the strategy into operational measurements (Kaplan et al.: Paragraph 3, Page 77).

Regarding Claim 18, claim 18 recites similar limitations to claims 3-4 and 11-12 and is therefore rejected using the same art and rationale as applied in the rejection of claims 3-4 and 11-12.

10. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Nation et al. U.S. Patent Publication No. 2007/020317 as applied to claims 1, 9 and 17 above, and further in view of Goodkovsky, U.S. Patent No. 6,807,535.

Regarding Claims 6 and 14 Michaels teaches a business management system and method wherein the key measurement indicators measure performance, service, quality and/or effectiveness of work performance quantifying results into relevant measurements (standards, productivity; Paragraph 2, Page 55; Paragraph 1, Page 56; Paragraph 2, Page 57).

Michaels does not expressly teach that training the training the individuals further comprises: evaluating the individuals to determine current skill levels and skills flexibility identifying relative strengths and weaknesses within a team of individuals from a training standpoint; and conducting a pre-training assessment to calibrate the skills of the individuals prior to training and conducting a post-training assessment to measure the skills retained by the individuals after conducting the training; wherein the pre-training and post-training assessments assess skills training needs for three skill areas

including: basic skills that define foundational elements needed to perform a job; fundamental skills that define an advanced set of skills for optimally performing a job; and advanced skill areas that define unique or special skills to perform a job as claimed.

Nation et al. teach evaluating the individuals to determine current skill levels and skills flexibility identifying relative strengths and weaknesses within a team of individuals from a training standpoint (Paragraphs 27, 87, 97, 104, 113; Figures 5C, 9A-9D, 10B); and conducting a pre-training assessment to calibrate the skills of the individuals prior to training (current skills; Paragraphs 73, 82) and updating the measure the skills retained by the individuals after conducting the training (history of skill level; Paragraph 78, 83); wherein the training assessments (pre-training) assess skills training needs for several skill areas including required, preferred and critical skill areas (Paragraphs 75-77, 81, 85, 110, 112, 144).

It would have been obvious to one skilled in the art at the time of the invention that the system and method as taught by Michaels would have benefited from determining the skills levels/flexibility of individuals, identifying relative strengths and weaknesses within a team of individuals from a training standing and conducting pre-training assessments in view of the teachings of Nation et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of

ordinary skill in the art would have recognized that the results of the combination were predictable.

While the utilization of pre and post testing to assess individuals skills before and after training is old and very well known neither Michaels nor Nation et al. expressly teach conducting a *post-training* assessment to measure the skills retained by the individuals after conducting the training as claimed.

Goodkovsky teach conducting pre-training and post-training assessments assess skills training needs (Column 15, Lines 58-68; Column 17, Lines 10-35; Column 18, Lines 57-68; Column 19, Lines 1-18; Figures 5, 6) in an analogous art of training for the purpose of assuring that the learner has mastered all the knowledge/skills of the course unit (Column 18, Lines 57-59).

It would have been obvious to one skilled in the art at the time of the invention that the system and method as taught by the combination of Michaels and Nation et al., with its ability to pre-test individuals for skills/competency levels as well as update individuals skill/competency levels after the completion of training would have benefited from post-training assessments to measure the skills retained by individuals after conducting training in view of the teachings of Goodkovsky; since the claimed invention is merely a combination of old elements, and in the combination each element merely

would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

It is noted that the labels used to describe the various skill areas (levels) mere represent non-functional descriptive materials (labels) merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific labels applied to the various system components. Further, the structural elements remain the same regardless of the specific labels applied to the various system components. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.*

11. Claims 5 and 13 re rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Nation et al. U.S. Patent Publication No. 2007/020317 in view of Kaplan et al., Linking the Balanced Scorecard to Strategy (1996)as applied to claims 4 and 12 above, and further in view of Leehman, U.S. Patent Publication No. 2005/0043976.

Regarding Claims 5 and 13 Michaels teaches a business management system and method wherein like work units are compared using fair standards (Paragraph 2, Page 55; Number 2, Page 56).

Michaels does not expressly teach the utilization of the key volume indicators or that the indicators are derived by comparing like work units and validating differences between processes used in like work units; and establishing engineering service metrics and reasonable expectations resulting from comparing the like work units; wherein the metrics include best demonstrated practices for activities conducted in the work units.

Leehman teaches a business management system and method comprising key performance indicators (volume measures, metrics) comprising:

- comparing like work units and validating differences between processes used in like work units (Paragraph 0023); and

- establishing engineering service metrics and (reasonable) expectations resulting from comparing the like work units (performance criteria, KPIs; Paragraphs 0023-0024, 0035);

- wherein the metrics include best demonstrated practices for activities conducted in the work units (Paragraphs 0035-0037)

in an analogous art of business management for the purpose of selecting best practices based on the comparison key measures between current practices and best practices (Paragraph 0023).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by the combination of Michaels and Kaplan et al. with its ability to update roadmaps would have benefited from comparing like work units, establishing metrics/expectations from the comparison wherein the metrics include best methods/practices in view of the teachings of Leehman; the resultant system/method enabling businesses to select current best practices based on the comparison key measures between current practices and best practices (Leehman: Paragraph 0023).

12. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) Nation et al. U.S. Patent Publication No. 2007/020317 as applied to claims 1 and 9 above, and further in view of Denton, Keith D., Work sampling: Increasing Service and White Collar Productivity (1987).

Regarding Claims 7 and 15 Michaels teaches a business management system and method wherein the time study of observable behavior includes ("Time Studies", Page 56; Work Sampling, Last Paragraph, Page 57; "Measuring Management", Page 59): identifying behaviors to observe; observing the behaviors; defining metrics (standards) for the behaviors; documenting the observation (Bullets 2, 5, Page 58); and identifying issues resulting from the observations (Bullet 5, Page 58; Last Bullet, Page 62; Bullet 1, Page 63).

While determining the statistical validity of observations (sampling) is old and very well known Michaels does not expressly teach determining statistical validity of observations as claimed.

Denton teaches determining statistical validity of observations (Last Paragraph, Page 37; Table on Page 40) in an analogous art of business management for the purpose of ensure that the observations/measurements accurately reflect the observed activities/behaviors (Last Paragraph, page 37).

Denton further teaches a system and method for providing a disciplined approach for conducting business management activities comprising:

- performing a time study of observable behavior and collecting data resulting from performance and observations of the behavior (Paragraphs 2-4, Page 37; Last Two Paragraphs, Page 36);
- generating a tally sheet of detailed work volumes (Table on Page 37);
- capturing best methods/practices (Paragraph 5, Page 41);
- comparing like work units (Paragraph 1, Page 37); and
- establishing goals/objectives for key measures (Paragraph 2, page 39).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from the well known practice of determining the statistical validity of observations in view of the teachings of Wilde; the resultant system/method enabling businesses to ensure they have enough observations/measurements to accurately reflect the observed activities/behaviors (confidence level; Wilde: Last Paragraph, Page 37).

13. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Nation et al. U.S. Patent Publication No. 2007/020317 as applied to claims 1 and 9 above, and further in view of Wilde, Edwin, A performance control system (1993).

Regarding Claims 8 and 16 Michaels teaches a business management system and method wherein collecting data resulting from performance work activities includes generating a tally sheet (sheet, table, count, spreadsheet, etc.; log/historical records) of detailed work volume (Paragraph 2, Page 57; Last Three Paragraphs, Page 56) and updating schedules based on observed activities (Last Bullet, Page 55).

Michaels does not expressly teach creating a daily schedule control using the tally sheet, the daily schedule including: productivity, percentage overtime, earned hours and/or lost time data as claimed.

Wilde teaches creating a daily schedule control using the tally sheet, the daily schedule including: productivity, percentage overtime, earned hours and/or lost time data (Column 1, Page 227; Column 1, Page 228; Figures 2, 3, 4) in an analogous art of business management for the purpose of utilizing key indicators/measures to manage/control work activities (Column 1, Paragraph 1, Page 225; Column 2, Last Paragraph, Page 225; Column 1, Paragraph 3, Page 228).

Wilde further teaches a system and method for providing a disciplined approach for conducting business management comprising:

- developing an activity list of tasks and behaviors (Column 1, Paragraph 3, Page 228; Column 2, Last Paragraph, Page 226; Figures 2, 4);

- performing a time study of observable behaviors (Figures 2, 4);

- collecting data resulting from performance of work activities (Column 1, Paragraph 3, Page 228; Column 2, Last Paragraph, Page 226; Figures 1,2, 4)

- identifying issues presented as a result of analyzing the data (Column 1, Paragraph 3, Page 228; Column 2, Last Paragraph, Page 226; Figure 4); and

- establishing and communicating goals and targets for exploiting the opportunity (Column 1, Paragraphs 1-2, page 227; Column 2, Paragraph 2, Page 228; Figure 4).

It would have been obvious for one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from teach creating a daily schedule control using the tally sheet, the daily schedule including: productivity, percentage overtime, earned hours and/or lost time data in view of the teachings of Wilde; the resultant system/method enabling business to identify and resolve issues based on the analysis of collected observations of work performance activities (Wilde: Column 1, Paragraph 3, Page 228; Column 2, Paragraphs 4-5, Page 230).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nichols et al., U.S. Patent No. 5,987,443, teach a system and method a system and method for observing/assessing individual behavior and generating a training roadmap.

- L'Allier et al., U.S. Patent No. 6,606,480, teach a system and method for generating personalized training roadmaps (individualized development plan) to individuals based on observed/demonstrated skills/behaviors.

- Lacy et al., U.S. Patent No. 6,735,570, teach a system and method for comparing the relative strengths and weaknesses of a group of individuals' skills/competencies.

- Richman, U.S. Patent No. 6,754,874, teach a system and method for assessing individual's observed behavior.

- Jilk et al., U.S. Patent No. 6,859,523, teach a system and method for assessing the work units of individuals and groups of individuals.

- Gray et al., U.S. Patent NO. 6,944,596, teach a system and method for identifying and providing training to meet individual training requirements identified as part of pre-training (pre-test) assessments.

- Ivanir et al., U.S. Patent No. 7,153,140, teach a system and method for providing training to individuals/groups of individuals based on identified training requirements.

- Mui et al., U.S. Patent No. 2003/0229529, teach a system and method for identifying and providing training to individuals/groups of individuals.

- D'Elena et al., U.S. Patent Publication No. 2003/0182178, teach a system and method for providing assessing the training needs/requirements for individuals based on the required/desired skills for one or more roles and/or jobs.

- L'Allier et al., U.S. Patent Publication No. 2003/0129575, develops individualized training based on an individuals current skills assessment compared to the organization's skill requirements.

- McElwrath, U.S. Patent Publication No. 2004/0009462, teach a training system and method.

- Guignard, U.S. Patent Publication No. 2004/0029093, teach a system and method for providing customized/individualized training.

- Popeck et al., U.S. Patent Publication No. 2004/0014016, teach a training system and method comprising pre-training and post-training assessments.

- Foo et al., U.S. Patent Publication No. 2006/0240396, teach a system and method for providing training further comprising pre-training and post-training assessments.

- Allen et al., U.S. Patent Publication No. 2006/0123060, teach a system and method for identifying and providing training based on the assessed skills of individuals/groups of individuals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott L Jarrett/
Primary Examiner, Art Unit 3624